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SENSITIVE
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E.O. 12958: N/A

TAGS: ELAB EINV ETRD PHUM SOCI AR

SUBJECT: ARGENTINA: CHILD LABOR INFORMATION FOR TRADE AND
DEVELOPMENT ACT (GSP) 2008 REPORT

REF: 08 STATE 127448

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¶11. (SBU) Per reftel instructions, below please find post's input to reftel's request for information on Argentina's efforts to implement their international commitments to eliminate the worst forms of child labor. Post requests that the Department of Labor not cite the Embassy as a source in its Child Labor report, given host government sensitivities to such reporting. Instead, post requests that the Department of Labor cites the publicly available websites that we provide below. In addition, post would appreciate the Department of Labor providing advanced notification of the report's publication along with press guidance to use locally.

¶12. (SBU) Our response is keyed to questions raised in reftel.

A) Laws and regulations proscribing the worst forms of child labor. Please provide answers to the following questions:

-- What laws have been promulgated on child labor in the country? What is the country's minimum age for admission to work? Are there exceptions to the minimum age law?

In June, the Argentine Congress passed law 26.390 raising the minimum age for employment from 14 to 15, which will increase to 16 in 2010. The law stipulates that children above 14 are allowed to work a maximum of three hours a day and 15 hours a week provided they attend school and the activities are not dangerous. The text of the law can be found at:
<http://www.infoleg.gov.ar/infolegInternet/anexos/140000-144999/141792/norma.htm>

Argentina ratified in 1996 the ILO's Convention 138 on the Minimum Age for Employment.

-- What is the minimum age for admission to hazardous work, and what additional provisions has the country enacted regarding children's involvement in hazardous work?

According to Article 10 of Law 26.390, the minimum age to perform hazardous work is 18.

Argentina ratified in 2001 the ILO Convention 182 on the Eradication of the Worst Forms of Child Labor.

In June 2006, the National Commission to Eradicate Child Labor (CONAETI) approved a new list of hazardous jobs for children, but it is still awaiting Ministry of Labor approval.

-- What laws have been promulgated on the worst forms of child labor, such as forced child labor and trafficking or child prostitution and pornography?

In April 2008, the Argentine Congress passed law 26.364 criminalizing Trafficking in Persons. The law specifically prohibits internal and international trafficking in persons both for sexual and labor exploitation purposes. In accordance with criminal regulations, the penalties set by the law range from three to 15 years in prison depending on the age of the victim, the number of victims, if the crime was organized by three or more persons, or perpetrated by an official, a family member, partner, guardian, religious figure, or teacher. The penalty is four to 10 years in prison for those who offer, capture, transport, accept, or receive persons under the age of 18, for the purpose of exploitation. The penalty ranges from six to 15 years of age if the victim is less than 13 years of age. In either case, the penalty is 10 to 15 years in prison if any of the aforementioned aggravating factors are present. The text of the law can be found at:

http://www.migraciones.gov.ar/pagina4/espanol/pdf/normativas/ley_26364.pdf.

In June 2008, the Argentine Congress passed law 26.388 criminalizing child pornography. For those who produce, finance, market, distribute, or facilitate the filming or live showing of child pornography, the penalty is six months to four years in prison. For possession of child pornography with intent to distribute, the penalty is four months to two years in prison. For those who facilitate the access of a minor to pornographic shows or materials, the penalty is one month to three years in prison. There is no criminal sanction for simple possession of child pornography. The text of the law can be found at: <http://www.infoleg.gov.ar/infolegInternet/anexos/140000-144999/141790/norma.htm>

-- Please specify what worst forms are prohibited and describe penalties for violations.

As mentioned previously, CONAETI's draft list of hazardous jobs for children is not publicly available as it is still awaiting Ministry of Labor approval.

-- What is the country's minimum age for military recruitment and/or involvement in armed conflict?

Argentina does not have a compulsory military draft. Individuals under the age of 18 may not be involved in armed conflicts.

-- If the country has ratified ILO Convention 182 on the Worst Forms of Child Labor, has it developed a list of occupations considered to be worst forms of child labor, as called for in Article 4 of the Convention?

Argentina has ratified ILO Convention 182. CONAETI has developed a list of occupations considered to be the worst forms of child labor but it is still waiting Labor Ministry approval.

B) Regulations for implementation and enforcement of proscriptions against the worst forms of child labor

-- What legal remedies are available to government agencies that enforce child labor and worst forms of child labor laws (civil fines, criminal penalties, court orders), and are they adequate to punish and deter violations?

Labor inspectors may impose fines for employing underage workers, ranging from 1,000 to 5,000 pesos (\$275 to \$1,370) for each child employed. In certain cases, labor inspectors may also close businesses. Inspectors may also refer cases to judges for further investigation and possible court proceedings, if warranted. Post is unaware of any court investigations into child labor cases in 2008.

-- To what extent are violations investigated and addressed?

Provincial governments and the city government of Buenos Aires are responsible for labor law enforcement. Post is unaware of publicly available statistics that could help evaluate the extent to which violations are investigated and addressed.

-- What level of resources does the government devote to investigating child labor and worst forms of child labor cases throughout the country?

This information is not publicly available.

-- How many inspectors does the government employ to address child labor issues?

According to CONAETI, there are 800 inspectors dedicated to child labor investigations.

-- How many police or other law enforcement officials address worst forms of child labor issues?

Although the police and other law enforcement agencies do not have a unit dedicated to child labor issues, each of the law enforcement agencies has a specialized trafficking in persons unit which can be called on to organize raids on locales suspected of child sexual and labor exploitation.

In addition, the federal police has a division dedicated to crimes against minors, which can also be called upon in investigations into child labor exploitation.

-- How many child labor investigations have been conducted over the past year and how many have resulted in fines, penalties, or convictions?

Post is unaware of publicly available statistics on the number of child labor investigations conducted over the past year.

However, in 2008, the Buenos Aires Province Ministry of Labor fined the poultry company "Nuestra Huella" AR 600,000 (USD 171,000) for child and forced labor, as well as tax evasion after the press reported an undercover investigation conducted by NGO La Alameda that turned up photos and footage of the conditions found at the 38 farms run by the company. The investigation revealed that children

as young as two years-old were working from sun-up to sun-down, seven days a week, among chicken excrement, flies, rodents, and dangerous chemicals. The original lawsuit was brought by a worker who along with his wife and six children worked on a farm which had an electric fence around the perimeter to restrict employee movement. He claimed that his wife was not allowed to go to the hospital when she miscarried at six months due to the harsh labor conditions. According to the press, the worker later taped phone conversations with a member of the rural workers labor union, UATRE, who offered hush money from the company's president. UATRE denies the claims and maintains that the children seen working are actually playing. Although the media reports that the company has yet to pay, CONAETI claims that the company has in fact paid the fine. Other actions against the company are still pending.

-- How many investigations into worst forms of child labor violations have been conducted over the past year and how many have resulted in prosecutions and convictions?

Post is unaware of publicly available statistics on the number of investigations into worst forms of child labor violations conducted over the past year.

-- Has the government provided awareness-raising and/or training activities for officials charged with enforcing child labor laws or worst forms of child labor laws?

Yes. CONAETI conducted seminars with the 19 provincial commissions for the eradication of child labor to train provincial authorities responsible for enforcing labor laws and raising awareness regarding exploitative child labor. It also provided technical assistance to NGOs addressing child labor in the tobacco and trash-picking sectors, including workshops with tobacco producers to encourage corporate social responsibility on child labor issues.

C) Whether there are social programs specifically designed to prevent and withdraw children from the worst forms of child labor. Please provide answers to the following questions:

-- What initiatives has the government supported to prevent children from entering exploitative work situations, to withdraw children engaged in such labor, and to advocate on behalf of children involved in such employment and their families?

In 2007, CONAETI created the Corporate Network to Fight Child Labor, which includes 63 prominent Argentine companies including the tobacco and cotton chambers of industry. The Network, along with CONAETI and the Ministry of Labor, meet every two months and discuss a yearly development plan. In November 2008, CONAETI, the Ministry of Labor, and the Network organized a conference on "The Role of the Media in the Prevention and Eradication of Child Labor." More information can be found at: <http://www.trabajo.gov.ar/conaeti/institucional/infantil.html>

In 2008, CONAETI and the Ministry of Education launched an initiative to provide scholarships to reintegrate children who have dropped out of school to work, and supports children who work and attend school. The program also provides children's parents with job search assistance and job training. According to CONAETI, 5,000 children and adolescents received scholarships in 2008. Labor inspectors have referred another 29,000 children and adolescents to the program. CONAETI indicates that these children are in the process of receiving scholarships for the next school year. More information on the program can be found at: <http://www.me.gov.ar/todosaaestudiar/>

D) Does the country have a comprehensive policy aimed at the elimination of the worst forms of child labor? Please provide answers to the following questions:

-- Does the country have a comprehensive policy or national program of action on child labor or specific forms of child labor? Does the country incorporate child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies or programs, such as Poverty Reduction Strategy Papers, etc? If so, to what degree has the country implemented the policy and/or program of action and achieved its goals and objectives?

Argentina has and continues to implement a National Plan to Combat Child Labor, which calls for the national consolidation of data, awareness raising, inter-institutional collaboration, stronger

inspection mechanisms, mainstreaming of child laborers into the formal education system, research, coordination of child labor laws, and a national program for the prevention and eradication of child labor in rural and urban settings. The purpose of the plan is to prevent school attrition, provide psychological and health assistance to children, and strengthen families.

In September 2008, the Argentine government, representatives of the General Labor Confederation (CGT), and the National Industrial Association signed a Memorandum of Understanding for the Implementation of the 2008-2011 Program for Decent Work in Argentina, with the technical support of the International Labor Organization. The Program includes provisions to prevent and eradicate child labor as well as improve decent work opportunities for youth. The MOU aims to strengthen GOA and other actors' capacity to develop, monitor and assess policies to prevent or eradicate child labor, including public awareness campaigns. The MOU specifically mentions two projects to eliminate children participation in trash-picking in urban areas and agricultural production in rural areas. The MOU also seeks to improve Argentina's inspection system, not only to eradicate child labor but also to protect adolescent work, in accordance with Law 26.390. More information can be found at, www.oit.org.ar/pagina.php?pagina=606

-- Is education free in law and in practice? Is education compulsory in law and in practice?

While the law provides for free and compulsory education for 13 years, beginning at age five, it is not always enforced effectively.

In October 2008, the Minister of Social Development of Buenos Aires province estimated that there were approximately 400,000 children who neither worked nor attended school in the Province alone.

E) Is the country making continual progress toward eliminating the worst forms of child labor?

-- What are the specific sectors/work activities/goods in which children work and how has this changed over the past year? Please note where possible any relevant characteristics about the children involved including gender, ethnic group, religion, age, etc.

In rural areas of Argentina, children are involved in the production and harvesting of many crops, but it is questionable whether that involvement would be considered significant from our viewpoint, or whether it should be considered child labor. Many children work in the harvest alongside their families during their summer vacation, much like many children in the United States have done for decades.

In urban areas, children are engaged in domestic service, food preparation, street sales, trash recycling, and garment production. They also work in small and medium-sized businesses and workshops, and they perform odd jobs such as opening taxi doors, washing car windshields, and shining shoes. There were some reports that children and adolescents were used as drug runners because they would not be sent to jail if they were caught. According to the press, the Minister of Justice estimated that approximately 5,000 children are involved in sex tourism and child pornography.

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